

### **REMARKS**

By this amendment, claims 44-45 are canceled, claims 31, 32, 38-40, 42, 43 and 46 are amended. Accordingly, claims 3, 6-17, 20, 23-33, 35-36, 38-40, 42, 43 and 46 are pending in the present application.

At the outset, applicant thanks the Examiner for indicating in paragraph 6 of the Office Action that claims 3 and 6-10 are allowable.

In paragraph 1 of the Office Action, claims 38-40 and 42-46 are rejected under 35 U.S.C. § 101 as directed to non-statutory subject matter. Claims 38-40, 42, 43 and 46 have been amended to recite apparatus comprising “a processor and a media comprising a computer readable program that, when the program is run by the processor, causes the [apparatus] to perform steps,” which is statutory subject matter. *See In re Bilski*, No. 2007-1130 (Fed. Cir., October 30, 2008) (*en banc*). Accordingly, withdrawal of this rejection is respectfully requested.

In paragraphs 2 and 3 of the Office Action, claims 31 and 32 are rejected under 35 U.S.C. § 112, second paragraph as being indefinite. In response, claims 31 and 32 have been amended to be in full compliance with all § 112 requirements. Accordingly, withdrawal of this rejection is respectfully requested.

In paragraphs 4 and 5 of the Office Action, claims 11-17, 20, 23-30, 33, 35-36 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Takao *et al.* (U.S. Patent No. 6,871,071) in view of Brouwer (U.S. Patent No. 6,799,045). The Examiner’s rejection on this ground is respectfully requested.

Independent claims 11 and 14 recite “controlling [] transmission power of a common control signal which governs a scope of service area that a radio base station forms to suppress interference [between service areas].” Neither Takao nor Brouwer alone, or in combination, disclose the above-recited limitations. Accordingly, the Office Action fails to establish a *prima facie* case of obviousness.

As an initial point, Takeo does not disclose detecting interference between plural base stations. The Office Action expressly admits this on page 4, stating that, “Takao et al does

not specifically disclose the steps of controlling transmission power of a common control signal, which governs a scope of a service area that a radio base station forms, for interference suppression in response to said occurrence of interference based on radio link quality information; detecting the occurrence of interference based on radio link quality information notified from each of said radio base stations.” Brouwer fails to cure.

The Office Action alleges that Brouwer “discloses the steps of controlling transmission power of a common control signal, which governs a scope of a service area that a radio base station forms, for interference suppression in response to said occurrence of interference based on radio link quality information notified from each of said radio base stations.” Applicant respectfully disagree. Brouwer teaches power control of the mobile handsets, not the base stations, and determining “the load situation of a cell . . . without the need to measure that load condition by counting transmit power control commands issued in the cell . . . which are determined to be reliable,” not based on interference between base stations servicing different service areas. Brouwer, col. 3, l. 58 to col. 4, l. 55. Thus, Brouwer does not disclose the claimed limitation of “controlling transmission power . . . for interference suppression . . . between service areas,” as recited in claims 11 and 14. Applicants dispute the statement that “[i]t is clear that Brouwer discloses the steps of controlling transmission power of a common control signal” because nowhere within the portions of Brouwer cited by the Office Action is there any disclosure that Brouwer teaches changing the base station’s transmitted power. Therefore, Brouwer cannot cure the deficiencies of Takao, because it does not even control base station transmitted power for the common control signal based on interference between plural base stations.

Dependent claims 12-13 and 15-16 incorporate by reference the limitations from independent claims 11 and 14. These dependent claims include additional limitations which, in combination with the limitations incorporated by reference, present additional reasons why they are allowable. Nothing in Takao and Brouwer cure the deficiencies applied to the independent claims. Applicant urges that these dependent claims are in condition for allowance as well as urge reconsideration and withdrawal of the rejections thereto.

Independent claims 17 and 20 each recite distributively controlling a load based on “the sum of sets of link utilization information collected from [respective] radio terminals for each radio base station.” Neither Takao nor Brouwer, alone or in combination, disclose this limitation. Indeed, the Office Action admits that Takao does not disclose this limitation. *See* Office Action pages 8 and 10.

The Office Action provides a citation to Brouwer, “(col. 9, line 42 – col. 10, line 55; col. 11, line 65; col. 19 line 8 – col. 20, line 45)” that supposedly discloses this claim limitation. But Applicant cannot find any teachings to this claim limitation in these cited portions of Brouwer. In fact, the citation itself appears erroneous, because claims start in Brouwer at col. 14, and the last portion cited in cols. 19 and 20 do not extend beyond line 15. Nothing in Takao nor Brouwer teaches summing of sets of link utilization information collected from radio terminals for each radio base station, as required by claims 17 and 20. Accordingly, Applicant urges that neither Takao nor Brouwer teach each and every limitation of independent claim 17 and 20, and respectfully submits that each of these claims are in condition for allowance and urges reconsideration and withdrawal of the rejections thereto.

Independent claims 23 and 26 each recite: “controlling transmission power of a radio base station based on said information of radio link qualities from plural radio terminals.” The Office Action admits in pages 12 and 14 that Takao does not disclose this limitation.

The Office Action alleges that Brouwer teaches adjusting base station transmission power, and provides the same erroneous citation to Brouwer discussed above in connection with claims 17 and 20. But as discussed above in connection with claims 11 and 14, Brouwer teaches power control of the mobile handsets, not the base stations’ power, and thus lacks disclosure of controlling base station power on any basis. Accordingly, neither Takao nor Brouwer teach or suggest “controlling transmission power of a radio base station based on information of said radio link qualities from plural radio terminals,” as required by independent claims 23 and 26. As such, Applicant respectfully suggests that independent claims 23 and 26 are presently in condition for allowance and urge reconsideration and withdrawal of the rejections thereto.

Dependent claims 24-25 and 27-28 incorporate by reference the limitations from independent claims 23 and 26. These dependent claims include additional limitations which, in

combination with the limitations incorporated by reference, present additional reasons why they are allowable. Nothing in Takao and Brouwer cure the deficiencies applied to the independent claims. Applicant urges that these dependent claims are in condition for allowance as well as urge reconsideration and withdrawal of the rejections thereto.

Independent claim 29 recites “receiving information of radio link qualities from plural radio terminals; and controllably changing a frequency used by a radio base station based on said information of radio link qualities from plural radio terminals.” The Office Action admits at page 16 that Takao does not disclose this limitation. The Office Action alleges that Brouwer teaches this limitation, but again provides the same erroneous citation to Brouwer, which lacks disclosure of this recited limitation. Without any suggestion or teaching of the claimed limitations, claim 29 is allowable over the cited art of record. Accordingly, Applicant respectfully submits that claim 29 is presently in condition for allowance and urges reconsideration and withdrawal of the rejection thereto.

Dependent claim 30 incorporates the limitations by reference from independent claim 29. Dependent claim 30 includes additional limitations which, in combination with the limitations incorporated by reference, present additional reasons why they are allowable. Nothing in Takao and Brouwer cures the deficiencies applied to the independent claim.

Applicant respectfully submits that dependent claim 30 is in condition for allowance and requests reconsideration and withdrawal of the rejections thereto.

Turning to claims 33 and 35-36, independent claim 33 recites a radio terminal that includes “means for measuring a radio link quality and then notifying a radio resource management apparatus of a radio link quality information being the measurement result, the notifying means performing a notifying operation at predetermined notification intervals.” A prior Office Action admitted that Takao did not disclose this limitation. Now, the Office Action alleges that column 9, line 42 to column 10, line 55; column 11, line 65; and column 19, line 8 to column 20, line 45 of Takao teaches this limitation. Applicant respectfully disagrees, and notes that this citation is identical to the often repeated and erroneous citation to Brouwer discussed above.

Takao at column 9, line 42 to column 10, line 55 discloses a radio base station measuring the traffic passing through itself and carrying out handover via a number of selection methods. Column 11, line 65 has a bare reference to a radio resource management unit controlling the switch for switching the signals of each mobile station. Column 19, line 8 to column 20, line 45 provides examples of a management table used to carry out handover. In this last citation, the only predetermined notification interval mentioned in Takao is where the **mobile stations are notified** about available radio resources in a base station. Far from notifying a radio resource management apparatus, as required by the claims, **the mobile stations receive a notification**; they do not perform a notifying operation. Hence, Takao does not disclose a radio terminal comprising “means for measuring a radio link quality and then notifying a radio resource management apparatus of radio link quality information being the measurement result, the notifying means performing a notifying operation at predetermined notification intervals” as claimed.

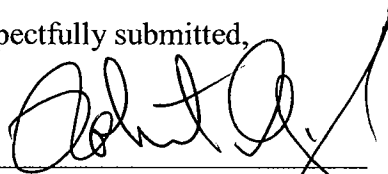
As discussed earlier, Brouwer doesn't teach controlling base station power. The Office Action provides no citation to Brouwer for the claimed limitation of “measuring a radio link quality and then notifying a radio resource management apparatus of radio link quality information . . . at predetermined notification intervals.” Accordingly, Applicant respectfully submits that a *prima facie* case of obviousness has not been made, and submits that independent claim 33 is presently in condition for allowance and urges reconsideration and withdrawal of the rejection thereto.

As claims 35 and 36 depend from claim 33, and as nothing in Takao or Brouwer cure the deficiency of Takao as applied to independent claim 33, Applicant urges that claims 33, and 35-36 are presently in condition for allowance and urge reconsideration and withdrawal of the rejections thereto.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

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Respectfully submitted,

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